

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TYRONE H. MASSEY, :
:
Plaintiff, :
: 1:20-cv-7617 (ALC)
-against- :
: ORDER OF DISMISSAL
CITY OF NEW YORK, ET AL., :
:
Defendants. :
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ANDREW L. CARTER, JR., United States District Judge:

Plaintiff Tyrone Massey, proceeding *pro se*, brings this lawsuit against the City of New York. Plaintiff filed suit on September 15, 2020. On January 4, 2021, Defendants filed a letter requesting a pre-motion conference regarding their anticipated motion to dismiss. On January 15, 2021, the Court ordered Mr. Massey to respond to the Defendants' request by February 3, 2021. Mr. Massey failed to respond.

On April 5, 2021, Mr. Massey wrote to Chief Judge McMahon, requesting an extension of time to respond to matters before the Court so that a 730 evaluation may be completed. On the same day, the Court denied Defendants' letter motion requesting a conference and stayed the case pending the resolution of Mr. Massey's 730 evaluation.

On June 21, 2021, Mr. Massey informed the Court that his paperwork was destroyed due to a fire incident and requested that the Court produce all paperwork and documents regarding all his cases in the Southern District of New York. On the same day, the Court issued an order directing Defendants to re-file their pre-motion conference letter by June 25, 2021 and ordering Mr. Massey to respond to the letter by July 9, 2021. The Court also directed Records Management to send Mr. Massey all documents filed in the case. The Court also directed to Defendants to serve the June 21, 2021 Order on Mr. Massey and file proof of service. Defendants filed proof of service on July 9, 2021. Mr. Massey did not file a response to the Defendants pre-motion conference letter.

On August 17, 2021, Mr. Massey again filed a letter to the Court requesting that the entries in this action be mailed to him. Those copies were mailed on the same day.

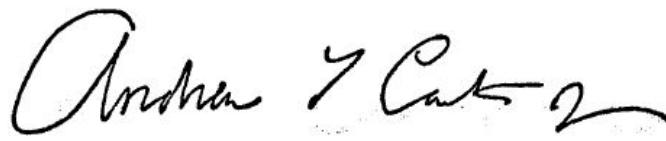
On October 4, 2021, the Court issued an order to show cause why Defendants' pre-motion letter should not be treated as unopposed. The Court ordered Plaintiff to respond by October 18, 2021. Plaintiff failed to respond.

On November 5, 2021, the Court issued an order granting Defendants' request to file a motion to dismiss and setting a briefing schedule. Defendants' filed their motion to dismiss on December 3, 2021, in accordance with the briefing schedule. Plaintiff should have filed an opposition on December 27, 2021. No such reply was filed. On January 4, 2022, the Defendants wrote to this Court, requesting that Plaintiff's claims be treated as abandoned.

Mr. Massey has repeatedly failed to respond to both Defendants' letters and the Court's orders. Accordingly, this case is dismissed without prejudice for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). *See LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001) ("[I]t is unquestioned that Rule 41(b) also gives the district court authority to dismiss a plaintiff's case *sua sponte* for failure to prosecute . . ."). The Clerk of Court is respectfully directed to serve Plaintiff with a copy of the instant order and terminate ECF No. 38.

SO ORDERED.

Dated: April 4, 2022
New York, New York



ANDREW L. CARTER, JR.
United States District Judge